

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff

v.

ATLANTIC CAPES FISHERIES, INC. and,
BJ'S SERVICE CO., INC.

Defendants.

CIVIL ACTION NO. 17CV11860

**DEFENDANT'S, BJ'S SERVICE CO., INC.'S MOTIONS TO DISMISS OR IN THE
ALTERNATIVE, AS TO MANDATORY CONCILIATION, TO STAY THIS MATTER
FOR FURTHER CONCILIATION**

The Defendant BJs, Service Co., Inc. ("BJs") hereby moves to Dismiss the Plaintiff's
Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for the following
reasons:

1. The Complaint fails to state a claim against Defendant, BJs, with respect to the named complainants and any alleged class of "similarly aggrieved female workers" at the ACF Fall River Facility, who allegedly suffered sexual harassment and a hostile work environment.
2. The Complaint fails to adequately allege that EEOC satisfied its mandatory statutory obligation, both to investigate and conciliate with respect to named complainants and the alleged class prior to suit. As to the mandatory Conciliation, Defendant moves to dismiss or, alternatively, to stay the action to allow for the requisite meaningful Conciliation.

In support of this Motion, BJs files herewith an accompanying Memorandum of Law.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), BJs respectfully requests that the Court schedule a hearing
on this motion.

LOCAL RULE 7.1(a)(2) CERTIFICATION

The undersigned certifies that counsel have conferred and attempted in good faith to resolve or narrow the issues raised in this Motion.

Respectfully submitted,

The Defendant,
BJ'S Service Co., Inc.
By Its Attorneys,

/s/ Matthew Mastromauro

Nancy A. Serventi, BBO# 452100
Christopher W. Costello, BBO# 645936
Matthew C. Mastromauro, BBO# 679049
McDonough, Hacking & Lavoie, LLC
27 Congress Street, Suite 404
Salem, MA 01970
(617) 367-0808
nserventi@mhlattys.com
ccostello@mhlattys.com
mmastromauro@mhlattys.com

CERTIFICATE OF SERVICE I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF (NEF) and paper copies will be sent to those indicated as non-registered participants on December 5, 2017.

/s/ Matthew C. Mastromauro
